BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 2018-319-E

IN THE MATTER OF:

Application of Duke Energy Carolinas, LLC For Adjustments in Electric Rate Schedules and Tariffs and Request for Accounting Order	))))	**REBUTTAL TESTIMONY OF JON F. KERIN FOR DUKE ENERGY CAROLINAS, LLC**

I. INTRODUCTION

Q. PLEASE STATE YOUR NAME, OCCUPATION, TITLE, AND BUSINESS ADDRESS.

A. My name is Jon F. Kerin. My business address is 411 Fayetteville Street, Raleigh, North Carolina. I am employed by Duke Energy Business Services, LLC, as Vice President, Coal Combustion Products ("CCP") Operations, Maintenance and Governance.

Q. ON WHOSE BEHALF ARE YOU SUBMITTING THIS REBUTTAL TESTIMONY?

A. I am submitting this rebuttal testimony on behalf of Duke Energy Carolinas, LLC ("DE Carolinas," or the "Company").

Q. ARE YOU THE SAME JON KERIN WHO FILED DIRECT TESTIMONY IN THIS CASE?

A. Yes.

Q. PLEASE DISCUSS THE PURPOSE OF YOUR REBUTTAL TESTIMONY.

A. The purpose of my rebuttal testimony is to address several issues discussed in the direct testimony of intervenors that are related to the Company's request to recover its compliance expenses for managing coal combustion residuals ("CCR"). Specifically, I will address issues raised in the testimonies of Office of Regulatory Staff ("ORS") witness Dan J. Wittliff and South Carolina Energy Users Committee ("SCEUC") witness Kevin W. O'Donnell.

Q. PLEASE SUMMARIZE YOUR REBUTTAL TESTIMONY.

A. Mr. Wittliff proposes serious and financially harmful disallowances of costs the Company has prudently incurred in closing ash basins. He proposes disallowing a total of $469,894,472 for Riverbend, Dan River, and Buck based on the mere fact that there is a state border running through the Company's service territory, failing to appropriately acknowledge the shared costs and benefits of the generation serving DE Carolinas' customers in South Carolina and North Carolina. The single basis for Mr. Wittliff's recommended disallowances is that DE Carolinas is complying with a valid North Carolina law (the Coal Ash Management Act or "CAMA"). Mr. Wittliff contends that South Carolina customers should not pay for that compliance because, in his view, CAMA is too expensive. This position, that South Carolina customers can enjoy all the savings of sharing power generation units with North Carolina customers but can ignore any legal compliance costs that he deems too expensive, would present grave harm to South Carolina customers if taken to its logical conclusion (which Company witness Dr. Julius Wright will address in his rebuttal testimony). His recommendation also departs from accounting standards, as explained by Company witness Doss. In addition to being bad policy with dire consequences to the State, Mr. Wittliff's disallowance methodology and recommendations are based on incorrect and unrealistic assumptions, and I will reveal these errors and flaws in my rebuttal testimony.

Mr. Wittliff also attempts to use this forum as new ground to rehash arguments before the Public Service Commission's ("PSC" or the "Commission") that were fully litigated in North Carolina and rejected by the North Carolina Utilities Commission ("NCUC") in DE Carolinas' North Carolina rate case (NCUC Docket No. E-7, Sub 1146). In that case, Mr. Wittliff's arguments were essentially a smear campaign directed at the Company presumably to punish the Company for the Dan River incident—the costs of which are not being charged to South Carolina customers. In fact, approximately two-thirds of Mr. Wittliff's testimony rehashes the same "Duke Energy is bad" arguments that he submitted on behalf of the Attorney General's Office to the NCUC. Those arguments were fully litigated and, for good reasons, rejected in the North Carolina case. Moreover, such assertions are not relevant to his recommended disallowances in this case and the Commission should not have to spend multiple days of hearing time listening to them as the NCUC had to endure.

Similar to Mr. Wittliff, SCEUC witness O'Donnell's coal ash testimony presents the same incorrect and rejected arguments that he made in the Company's North Carolina case. Like Mr. Wittliff, Mr. O'Donnell also contends that CAMA is more expensive than the federal CCR Rule and that South Carolina should be free to ignore any valid law that SCEUC deems to be too expensive. Mr. O'Donnell simply suggests that a 75 percent disallowance of all the Company's coal ash

compliance costs seems correct to him based on his perusal of what he contends are national coal ash compliance costs in other states. Notwithstanding the obvious invalidity of this position, I will explain the multiple errors that Mr. O'Donnell commits and will demonstrate why his "thumb in the air" method of cost recovery cannot and should not be taken seriously by this Commission.

II. RESPONSE TO ORS WITNESS WITTLIFF

Q. IN GENERAL, WHAT IS YOUR OVERALL IMPRESSION OF MR. WITTLIFF'S TESTIMONY?

A. I do not believe that Mr. Wittliff's testimony is helpful to the Commission's assessment of DE Carolinas' reasonable and prudent coal ash expenses in this docket, and therefore should be rejected.

Q. WHY DO YOU BELIEVE THAT MR. WITTLIFF'S TESTIMONY IS NOT USEFUL?

A. Mr. Wittliff spends approximately four pages of his testimony discussing his engineering experience and his experience with coal ash, yet he offers no substantive engineering opinions. Mr. Wittliff's recommended disallowances are not based on any finding of imprudence regarding the Company's closure strategies or execution thereof. Instead, the disallowances are based entirely on a poor regulatory policy argument that the Company should not be able to recover expenses to comply with a North Carolina law. If the Commission rejects Mr. Wittliff's poor policy argument, which it

should, then none of Mr. Wittliff's testimony matters in this proceeding because every conclusion and recommendation that he reaches in his testimony is dependent on the Commission accepting that ill-founded argument.

Q. HOW WOULD YOU CHARACTERIZE THE BULK OF MR. WITTLIFF'S TESTIMONY?

A. The first twenty-nine pages of Mr. Wittliff's testimony largely mirror his testimony in the North Carolina case and the rhetoric recycled in those pages has nothing at all to do with the theory that he is attempting to advance here. He discusses the evolution of environmental regulations relating to CCR, historic utility industry practices for managing CCR, the Company's historic management practices, and the genesis of CAMA. None of this testimony, however, is relevant to Mr. Wittliff's substantive recommendations to this Commission. While I vehemently disagree with Mr. Wittliff's mischaracterizations of the industry's and the Company's CCR management practices, they are not relevant to the Company's request to recover its compliance costs in this case.

Q. WHY DO YOU SAY THAT THE BULK OF MR. WITTLIFF'S TESTIMONY IS IRRELEVANT?

A. ORS's single recommendation to the Commission is to disallow costs that the Company has incurred to comply with North Carolina law, i.e. CAMA. Mr. Wittliff insinuates that DE Carolinas caused CAMA,

which was an argument that completely failed in North Carolina and for good reason. Mr. Wittliff has apparently seen fit to raise a losing argument again here.[1] However, what is missing from Mr. Wittliff's testimony is most important. He does not allege that CAMA is a punitive law nor can he, because it is not. He does not allege that CAMA is an unreasonable or excessive law for North Carolina or if adopted elsewhere, because it is not and does not. He does not allege that CAMA reflects bad environmental policy, nor can he, because it does not. Nor does he allege that CAMA's closure requirements conflict with the closure options available under the EPA's CCR Rule, nor can he, because it does not. Further, he does not allege that the Company took any imprudent or unreasonable action to comply with CAMA and the CCR Rule, nor can he, because it did not. His recommended disallowances are entirely based on the fact that there is a border between South Carolina and North Carolina. Therefore, Mr. Wittliff's discussion of the Company's CCR management history is irrelevant to his recommended disallowances and is just a designed distraction from his flawed and irresponsible theory of disallowance.

[1] *See Order Accepting Stipulation, Deciding Contested Issues, and Requiring Revenue Reduction,* Docket No. E-7, Sub 1146 at 270-72 (NCUC June 22, 2018).

Q. ARE YOU ADDRESSING REGULATORY IMPLICATIONS OF THE ORS'S RECOMMENDED DISALLOWANCE POLICY?

A. No, not directly. Company witness Dr. Wright discusses the regulatory implications and flaws of ORS's recommended disallowance policy for CCR expenses in his rebuttal testimony, but I do not need to be a policy expert or a lawyer to know that Mr. Wittliff's poor policy proposal lacks fundamental fairness.

Q. DO YOU HAVE ANY GENERAL OBSERVATIONS REGARDING MR. WITTLIFF'S DISALLOWANCE TESTIMONY?

A. Yes. At the outset, I will note that Mr. Wittliff's reasoning is entirely dependent on speculating what the Company hypothetically would or would not have done in the absence of CAMA. That is not reality, and the reasonableness and prudence of the Company's costs should be judged in light of actual circumstances. Mr. Wittliff should be held to his own standard. (Wittliff Direct 31:2 ("speculation…should not be considered in this proceeding")). Keeping this in mind, I address the flawed assumptions upon which Mr. Wittliff's recommended disallowances are based and will demonstrate that his suggested disallowances (totaling $469,894,472 – Riverbend ($316,680,665), Dan River ($116,669,019), and Buck ($36,544,788)) are unfounded.

Q. PLEASE SUMMARIZE MR. WITTLIFF'S BASIS FOR A DISALLOWANCE OF ALL RIVERBEND CCR COSTS.

A. Mr. Wittliff argues that the Company is only closing the ash basins at Riverbend because it is required to do so under CAMA. If CAMA did not exist, he argues, the Company would only be required to comply with the federal CCR Rule and would have left the ash basins at Riverbend untouched indefinitely. Accordingly, he recommends a disallowance of all Riverbend compliance costs incurred to-date.

Q. HOW DO YOU RESPOND TO MR. WITTLIFF'S RECOMMENDED DISALLOWANCE FOR RIVERBEND COSTS?

A. Mr. Wittliff's recommended disallowance of Riverbend expenses should be rejected because his position defies belief when considered in the context of the real world[2]. The suggestion that DE Carolinas could or would have taken a "do nothing" approach to Riverbend's ash basins, while at the same time closing all of its other ash basins in South Carolina and North Carolina, defies regulatory reality. Arguing this "do nothing" approach would have been reasonable and accepted by regulators and stakeholders for Riverbend's inactive CCR units, when similar inactive basins at the Company's W.S. Lee station were being

[2] I again note that my testimony here factually rebutting Mr. Wittliff's arguments is not an acceptance of his flawed policy suggestion that CAMA requirements can simply be ignored. Rather, my testimony demonstrates that Mr. Wittliff's theories fail no matter how ones considers them.

excavated, is an absurd proposition. In fact, under Mr. Wittliff's faulty logic, it follows that South Carolina customers should refund North Carolina customers all money spent for excavating ash from the inactive basins at the W.S. Lee site in South Carolina because they were otherwise exempt from the CCR Rule.

Additionally, Mr. Wittliff acknowledges that after the CCR Rule was promulgated containing the provision that excluded retired ash basins such as those present at the Riverbend and the W.S. Lee sites, the EPA was sued in 2015. That lawsuit alleged, among other things, that the exclusion of inactive CCR surface impoundments at retired power plants from the CCR Rule was arbitrary and capricious because it failed to meet the Resource Conservation and Recovery Act's ("RCRA") standard of "no reasonable probability of adverse effects." In August 2018, the United States Court of Appeals for the District of Columbia Circuit found "the Rule's legacy ponds exemption is unreasoned, arbitrary, and capricious" and vacated and remanded these provisions of the CCR Rule to EPA. As a result, EPA will have to affirmatively undertake regulatory changes to the CCR Rule to implement the court's judgment, including adding new provisions to the rule specifically regulating legacy impoundments. Although Mr. Wittliff acknowledges this lawsuit and rulemaking, he tells the Commission to ignore these real-world facts and only focus on his hypothetical view of how the world may have turned out had CAMA never been passed.

Q. PLEASE SUMMARIZE MR. WITTLIFF'S BASIS FOR A DISALLOWANCE OF DAN RIVER CCR COSTS.

A. Mr. Wittliff argues that, absent CAMA, DE Carolinas could have started closure of Dan River's CCR units later. He then recommends that the Commission disallow the Company's site closure costs that were incurred earlier than they allegedly would have been absent CAMA.

Q. HOW DO YOU RESPOND TO MR. WITTLIFF'S RECOMMENDED DISALLOWANCE FOR DAN RIVER COSTS?

A. Mr. Wittliff does not take issue with the closure strategy or the Company's costs at Dan River. Therefore, only the timing of the Company's costs are in dispute, and Mr. Wittliff apparently assumes that the price of labor, supplies, materials, and equipment gets cheaper as time passes and demand increases. This assertion, of course, defies common sense.

Q. WOULD MR. WITTLIFF'S PROPOSED TIMELINE FOR DAN RIVER CLOSURE UNDER THE CCR RULE HAVE REDUCED CLOSURE COSTS?

A. No. Mr. Wittliff alleges that CAMA accelerated DE Carolina's closure costs at Dan River. While an accelerated closure schedule would theoretically condense expenditures in the short term, an extended closure schedule, as proposed by Mr. Wittliff, would actually result in higher total project costs. These higher costs would be attributable to

increased overhead and changing market conditions, like vendor and resource availability. The Company is ahead of most utilities in the region in terms of its progress in achieving ash basin closure. If the Company delayed its closure and extended the closure schedule as proposed by Mr. Wittliff, it would be competing with other utilities for limited, experienced vendors and specialized resources. In fact, the Company has seen these real-world price increases take place, a fact that Mr. Wittliff ignores in his hypothetical version of reality. For example, over the past three years labor costs for truck drivers and equipment operators have increased eight and nine percent, respectively.

Q. DO YOU TAKE ISSUE WITH HOW MR. WITTLIFF ATTEMPTED TO QUANTIFY COSTS AT DAN RIVER THAT HE ALLEGES WOULD NOT HAVE BEEN SPENT UNDER THE FEDERAL CCR RULE?

A. Yes.[3] Mr. Wittliff's theory that the Company would not have been required to commence closure under the CCR Rule until October 31, 2020 at Dan River is completely wrong. In fact, it seems that Mr. Wittliff has inadvertently proven his erroneous assumption with his own testimony where he cites Company Witness Kerin's Exhibit 10:

> "The last volume of CCR for beneficial use was removed from the Dan River Primary Ash Basin on April 4, 2018, and, within

[3] Again, I reiterate that by pointing out Mr. Wittliff's incorrect assumptions in my testimony, I am not endorsing his attempt to segregate hypothetical CCR Rule-only and CAMA–only closure costs or his methodology.

thirty (30) days, the basin commenced closure pursuant to 40 CFR 257.102(e)(1)(ii)." (Wittliff Direct 36:12-14).

Therefore, contrary to Mr. Wittliff's assumption, the CCR Rule would have required the Company to commence closure on May 4, 2018.

Mr. Wittliff's entire disallowance methodology and recommendation for Dan River depends on his assumption that the Company would not have commenced closure until 2020. Because that assumption is wrong, as demonstrated by his own testimony, the remainder of his testimony regarding his proposed Dan River disallowance is wrong as well.

Q. PLEASE SUMMARIZE MR. WITTLIFF'S BASIS FOR A DISALLOWANCE OF BUCK CCR COSTS.

A. Mr. Wittliff states that the Company is beneficiating ash at the Buck site only because of CAMA, which is true. He then argues that beneficiation is not a requirement under the federal CCR Rule; therefore, the Company should not be able to recover costs related to beneficiation at Buck.

Q. DO YOU TAKE ISSUE WITH HOW MR. WITTLIFF ATTEMPTED TO QUANTIFY CAMA COSTS AT BUCK?

A. Yes. In his testimony (page 35, lines 7-8), Mr. Wittliff states that based on his visit to the Buck site it "appears" that most of the work he saw looks like beneficiation work and therefore recent costs at the site must

be for beneficiation. This, of course, is not a valid method of determining costs.

Q. DOES CAMA'S BENEFICIATION REQUIREMENT RESULT IN INCREASED COSTS FOR SOUTH CAROLINA?

A. Yes, at the Buck site, but not for South Carolina as a whole. In total, for both DE Carolinas and Duke Energy Progress, LLC ("DE Progress"), CAMA's beneficiation requirement actually results in a net savings for South Carolina. Between DE Carolinas and DE Progress, the Company selected three sites for beneficiation projects: Buck (DE Carolinas), Cape Fear (DE Progress), and H.F. Lee (DE Progress). Those sites were selected based on the quality and quantity of ash present at the site; logistical factors; and proximity to relevant markets where the beneficiated ash can be sold. The ash basins at those sites are being closed by excavation, and the ash is being beneficiated as opposed to being disposed of in permitted landfills. For the Buck site, estimated beneficiation costs are approximately $131 million more expensive than closure without beneficiation on a total system basis. However, for the Cape Fear and H.F. Lee sites, beneficiation under CAMA is providing an estimated net savings compared to closure without beneficiation of approximately $703 million on a total system basis. Mr. Wittliff and the ORS appear to have overlooked this fatal flaw to their policy argument that CAMA be ignored as if it never existed. Under their theory, if South Carolina customers will not pay the increased costs of CAMA

beneficiation at the Buck site, then they fairly cannot enjoy the superior savings afforded by CAMA beneficiation at the Cape Fear and H.F. Lee sites and would owe North Carolina customers a net refund for those costs savings. This demonstrates how the ORS's ill-advised policy of ignoring laws it does not like creates absurd results in the real world.

Q. IS CAMA'S BENEFICIATION REQUIREMENT UNREASONABLE AS SUGGESTED BY MR. WITTLIFF?

A. No. DE Carolinas beneficiation projects at Buck, Cape Fear, and H.F. Lee utilize technology that was first deployed and approved in South Carolina at SCANA coal ash facilities.

III. RESPONSE TO SCEUC WITNESS O'DONNELL

Q. WITNESS O'DONNELL RECOMMENDS A DISALLOWANCE OF 75% OF CCR EXPENSES BASED ON WHAT HE CALLS A NATIONAL COMPARISON OF CCR ASSET RETIREMENT OBLIGATION (ARO) AMOUNTS. DO YOU AGREE WITH HIS CONCLUSIONS?

A. I do not. Mr. O'Donnell has simply repackaged his failed inflammatory theory from DE Carolinas' North Carolina rate case. Mr. O'Donnell's "analysis" has the same significance of taking a list of home sales prices from around the Southeast and the country without regard to the size, location, features, or age of the houses; listing them out in order of greatest to least cost; and then concluding that houses in certain areas of the country are overpriced because they are not the same as house prices

in other places in America. While Mr. O'Donnell claims that he has taken fair measures to make his comparison of national CCR ARO amounts valid (such as applying a random 65 percent capacity factor to coal plants located at various CCR sites), I do not see where Mr. O'Donnell has accounted for or even considered the following factors in his analysis:

a. The number of coal plants in the Company's fleet;

b. The type of coal plants in the Company's fleet;

c. The age of the plants in the Company's fleet;

d. The amount of coal at each of the plants in the Company's fleet;

e. The type of coal used in each of the plants in the Company's fleet;

f. The actual MW capacity of each coal plant, over their lifetime considering plant upgrades that may have occurred adding generation;

g. The type of environmental controls, if any, installed on the plants in the Company's fleet (*e.g.*, electrostatic precipitators, flue gas desulfurization);

h. Whether any plants in the Company's fleet utilize dry ash handling;

i. Whether any CCRs generated from the plants in the Company's fleet are being sold for beneficial reuse;

j. The type of CCR basins in the Company's fleet;

k. The location of the CCR basins in the Company's fleet;

l. Whether other utilities have closed some of their coal ash basins;

m. Soil and other geologic conditions of the CCR basins in the Company's fleet;

n. State specific laws applicable to CCR basins in the Company's fleet;

o. Regulatory rules and regulations for each state applicable to the CCR costs and AROs in Table 8 of his testimony;

p. Whether any CCR costs have been excluded from the ARO amounts listed in Table 8 of his testimony (*e.g.*, write-offs);

q. ASPE Cost Estimate Classifications for each ARO amount stated in Table 8 of his testimony;

r. Macro-level assumptions used by each company in deriving the ARO amounts (*e.g.*, basin closure dates, closure methods, etc.);

s. The scope of work assumed in each ARO estimate;

t. Any contracts, RFPs, RFIs, or bidder responses for work to be performed;

u. Comparisons of actual, to-date costs to projected costs in the AROS when considering recently passed or proposed legislation;

v. Whether any CCR basins were excluded from the ARO amount (e.g. not subject to the federal CCR Rule) and if so, why; and

w. The amounts and types of CCRs in the basins for each company.

Without consideration of these elements, I do not see any reasonable basis for taking Mr. O'Donnell's recommendation seriously. Further, many of the figures that Mr. O'Donnell uses in his comparison appear to be unreasonable on their face. For example, Mr. O'Donnell's SNL data shows Ohio Power Company's ARO to be $1.66 million. Even if it is assumed that Ohio Power used cap in-place for its ash basins, $1.66 million is a wildly unreasonable estimate for covering hundreds of acres of ash.

In addition to using incorrect figures in his "analysis," Witness O'Donnell did not consider the fact that the other utilities he listed in his testimony are in very different stages within their coal ash management timeline than DE Carolinas, as discussed in the rebuttal testimony of Dr. Wright. Witness O'Donnell mistakenly takes the ARO data he copied from SNL as gospel, as opposed to characterizing them for what they are, which are rough estimates. If Mr. O'Donnell had gone behind the numbers, he would likely have discovered that there is substantial uncertainty about the level of actual closure costs of many of the utilities listed. For example, his analysis does not consider legislation that was recently passed by the Virginia General Assembly that will significantly increase closure costs for Virginia Electric and Power Company ("VEPCO" d/b/a Dominion Energy). This legislation requires VEPCO to excavate allof its basins located in the Chesapeake Bay Watershed after the company had already submitted closure plans

calling for cap-in-place at most of these sites. The total estimated costs for VEPCO to close these basins is $5.2 billion to $8.6 billion, which reflects an 897 to1,314 percent increase from the ARO estimate cited by Mr. O'Donnell for that company.

A further consideration that is absent from Mr. O'Donnell's table is that closure costs (such as labor, trucking) will vary greatly based on geographic regions, supply and demand, timing of closure, and many other factors that would have to be normalized to develop an accurate comparison (if it is even possible). DE Carolinas is much farther along in the closure process than most other utilities in other states. As a result, the comparison Mr. O'Donnell is trying to draw provides no value to this case.

I therefore recommend that the Commission determine the reasonableness of DE Carolinas' ARO amount on its own merits based on the facts in this case.

Q. DO YOU BELIEVE THAT SCEUC WITNESS O'DONNELL HAS A CREDIBLE BASIS FOR SAYING THAT DE CAROLINAS' COAL ASH AROS ARE HIGHER THAN AROS FOR UTILITIES IN OTHER STATES BECAUSE OF CAMA?

A. No. Witness O'Donnell made no attempt to quantify DE Carolinas' coal ash AROs resulting from CAMA, as compared to its obligations under the CCR Rule. Nor did he attempt to determine the impetus for coal ash AROs for the other utilities to which he compares DE Carolinas. Since

Mr. O'Donnell cannot attribute any specific ARO coal ash costs to CAMA and cannot attribute ARO coal ash costs for other companies to any particular regulatory obligation, he cannot credibly testify that DE Carolinas' ARO coal ash costs are higher because of CAMA, even if that fact were relevant to this proceeding, which it is not.

Q. DOES MR. O'DONNELL PROVIDE ANY OTHER BASIS FOR A DISALLOWANCE OF DE CAROLINAS' CCR COMPLIANCE COSTS?

A. Yes. Mr. O'Donnell recommends a disallowance of $46.7 million, because he argues that the Company should have sought coal ash costs in prior cases. Dr. Wright will address this in his rebuttal testimony.

Mr. O'Donnell also states that he may recommend unspecified disallowances, presumably sometime before this case concludes, related to the Company's closure activities at Dan River and W.S. Lee based on discovery that he alleges he still needs to take and based on access to information that he mistakenly claims is confidential. I will address those disallowances below.

Q. DO YOU AGREE WITH MR. O'DONNELL'S FIRST CONTENTION THAT DE CAROLINAS SHOULD NOT HAVE EXCAVATED THE INACTIVE COAL ASH BASIN AT THE COMPANY'S W.S. LEE SITE IN ANDERSON COUNTY, SOUTH CAROLINA?

A. No. Under the same argument used by ORS (ignore state-specific

regulation and only allow recovery for CCR compliance), Mr. O'Donnell argues that the Company should not have touched the inactive ash basin at W.S. Lee and should have left the ash there in the ground, as-is, because the CCR Rule would not have required it to be closed. Notably, the ORS did not take their "ignore everything except the CCR Rule" argument across the border into South Carolina, but Mr. O'Donnell does. DE Carolinas excavated the inactive ash basin at W.S. Lee pursuant to a consent agreement with the South Carolina Department of Environmental Control ("SCDHEC"). The terms of the agreement are consistent with South Carolina's closure expectations for all utilities with CCR units. North Carolina customers are paying for the work done under the terms and conditions of this consent agreement even though it was specific to South Carolina regulatory action and was not required in totality, under the CCR Rule. This again demonstrates the real-world implications of the flawed and dangerous policy advanced by Mr. O'Donnell's suggestion.

Q. DO YOU AGREE WITH MR. O'DONNELL'S SECOND CONTENTION THAT COSTS SHOULD BE DISALLOWED FOR DAN RIVER CLOSURE COSTS?

A. No. Mr. O'Donnell argues that DE Carolinas should have used an on-site "brownfield closure strategy" to deal with ash at the Dan River site, which means that he suggests that the Company was imprudent for not building an on-site landfill at Dan River to store ash that was excavated

out of the ash basins there. The problem with Mr. O'Donnell's argument is that the Company did utilize a brownfield closure strategy at Dan River and did build an onsite landfill there, just as he suggests.

In order to construct a lined, permitted landfill at the Dan River location, the Company excavated ash from the Ash Fill 1 area and disposed of that CCR off-site. The Company took this action because the Ash Fill 1 area and the ash contained in it was on top of the site where the Company needed to build the new, on-site landfill that Mr. O'Donnell admits the Company needed to build. Once the onsite landfill at the site was constructed, the remainder of the ash at the site, including ash from the Primary Ash Basin, the Secondary Ash Basin, and Ash Fill 2, is being disposed of in Dan River's onsite, brownfield landfill. Therefore, it appears that Mr. O'Donnell does not have a real issue with the actions taken at Dan River, but instead does not fully understand how the onsite landfill was built and why some ash had to be moved to build it.

Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?

A. Yes.